MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director

Heidi Sowell, Assistant City Planner

FOR: Meeting of December 19, 2005

SUBJECT: Appeal of Notice of Violation (A-05-4)

Taylor Street Excessive Dwelling Units

DATE: December 14, 2005

Staff Report No. 05-31

On November 1, 2005, Kathy Wilson of DRA Real Estate, L.L.C., on behalf of Julian Lester, filed an appeal of a Notice of Violation and Order to Correct or Cease Activity (hereinafter referred to as "Notice of Violation") issued by the Pullman planning department that claims that the number of dwelling units at 645 SE Taylor Street exceeds the maximum number allowable in the Pullman Zoning Code (See Attachment "A," Appeal Letter; and Attachment "B," Location and Zoning Map). Upon receipt of this appeal, city staff scheduled a public hearing before the Board of Adjustment for December 19, 2005 in accordance with Chapter 17.185 of the Pullman City Code. Notice of this hearing was provided by publication, posting the site, and mailing as required by code.

BACKGROUND

The three dwelling units at 645 SE Taylor Street are located in an R2 Low Density Multi-Family Residential zoning district. The Pullman Zoning Code includes density requirements for each residential zoning district. Zoning Code Subsection 17.75.080(2) specifies that the R2 zoning district allows for a minimum lot area of 3,000 square feet per dwelling unit.

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The property at 645 SE Taylor has a lot size of 6,500 square feet. The applicable zoning code provisions for the R2 Low Density Multi-Family Residential zoning district would permit for no more than two separate dwelling units on the property. Planning staff has determined that three dwelling units are established on the property.

City staff conducted a site visit in March of 2005, in response to a concern that was reported to the city. During the site visit staff talked to an occupant of one of the dwelling units and he confirmed that there were three separate dwelling units. Staff also saw three mailboxes at the subject property. With the number of dwelling units established, the next step was for staff to verify that the dwelling units were not created at a time when it may have been permitted in the zoning code.

Planning staff contacted the city finance department to determine if the subject property was being billed as three dwelling units and was informed that the account was actually being billed as a single-family residence. The city address file was also referenced and found to contain applicable documents to support the conversion to a duplex; however, there is no information that a conversion to three dwelling units was ever permitted.

On October 24, 2005, planning staff mailed, by Certified Mail Return Receipt Requested, a Notice of Violation concerning the excess dwelling unit violation to property owner Julian Lester (<u>See</u> Attachment "C," Notice of Violation). The city was provided with notification that Mr. Lester received the Notice of Violation (<u>See</u> Attachment "D," Domestic Return Receipt). As stated above, the appeal in this case was filed on November 1, 2005.

STAFF ANALYSIS

The appellant appears to have complied with the relevant procedural requirements. Therefore, with respect to this case, the Board is requested to rule on substantive grounds. The Board will be asked to affirm, modify, or reverse the action of planning staff in this matter.

In its Notice of Violation, the city stated that over the allowable amount of dwelling units have been established at the subject property, located in an R2 Low Density Multi-Family Residential zoning district. As indicated previously, this represents a violation of the zoning code regulations.

In her appeal documents, Ms. Wilson confirms that there are three dwelling units established at the site. In her appeal of the Notice of Violation, Ms. Wilson states, "This violation should be reversed as the property was purchased having three individual units; no changes have been made to the property. The unit is well maintained. Currently the unit only has four occupants." Staff contacted the city attorney, Laura McAloon, regarding this case and confirmed that a change in ownership has no bearing on enforcement of a

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code violation. Ms. McAloon stated that, although the current owner may have not created the nonconformity, a violation still exists that must be corrected. Thus, planning staff believes its actions regarding this matter are justified and the subject appeal should be denied.

ACTION REQUESTED

- 1. Open the public hearing, establish rules of procedure, and ask Appearance of Fairness questions.
- 2. Accept oral staff report.
- 3. Accept public testimony regarding the subject appeal.
- 4. Decide, by resolution, to accept or reject the subject appeal. At the public hearing, staff will have available draft resolutions prepared for either acceptance or rejection of the appeal.

ATTACHMENTS

- "A" Notice of Appeal
- "B" Location and Zoning Map
- "C" Notice of Violation
- "D" Domestic Return Receipt